



PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Orlowski)	
Serial No.: 09/428982)	Examiner: Patel, V
Filed: 10/28/99)	
For: BEARING ISOLATOR)	Art Unit: 3626
)	
)	

PETITION TO REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNITENTIONALLY UNDER 37 CFR 1.137(b)

This application was filed on 10/28/99 and assigned application number 09/428/982. A final office action was mailed on 03/18/03 and was returned to the United States Patent and Trademark office for having an incorrect address. The Patent office then re-mailed the Final Office Action on 6/5/03 and again the correspondence was returned back to the Patent Office on 6/25/03 because of the wrong address. A response within the 6-month statutory period was required by 12/5/03. We received a phone call from the Examiner stating the application was being abandoned due to us not responding by the required time. If our office would have received the Final Action, we could and would have responded in a timely manner.

STATEMENTS OF FACT

1. During that phone conversation with the examiner on December 15, 2003 in regards to the incorrect address on the final office action, our office requested a copy of the action. The examiner submitted by facsimile a draft copy of the final office action on December 16, 2003.

2. Our office than received the original final office action from another department in the Patent Office on December 17, 2003 with a date of December 17, 2003. A response time for the action would be 2-3 months from the mailing date of December 17, 2003 which would allow us the statutory period to respond. Enclosed as Exhibit 1, is a copy of the condition of the office action our office received . Our office received the Notice of Abandonment on January 9, 2004

with a mailing date on the notice of January 6, 2004. Enclosed is a copy of the Notice of Abandonment as Exhibit 2.

3. Enclosed is a copy of a dated letter from the USPTO with our Customer Number as Exhibit 3 showing practitioners registration number assigned to his customer number.

Per the examiner's instructions the applicant now files this Petition to Revival of an application for patent abandoned under 37 CFR 1.37(b) with the following:

1. The required reply;
2. The petition fee as set forth in 37 CFR 1.17(m);
3. The following statement:

All actions and untimely filings were unintentional due to the delays in mailing by the Patent office which resulted in the abandonment of application number 09/428,982. Any and all action taken by me or my office staff on my part resulting in the abandonment of application 09/428,982 were unintentional and the purpose of this application is solely to re-instate patent application 09/428,982.

Respectfully submitted,

Date: 3-15-2004

By



H. Vincent Harsha
Reg. No. 18,045

H. Vincent Harsha
1630 5th Avenue
Moline, IL 61265
Phone: (309) 797-0850
Fax: (309) 764-1485



#18

PTO/SB/61 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

P3091

First Named Inventor: Orlowski, David

Art Unit: 3626

Application Number: 09/428,982

Examiner: Patel, Vishal A

Filed: 10-28-99

RECEIVED

Title: Bearing Isolator

MAR 22 2004

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9382.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☒ Small entity - fee \$ 55.00 (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of
Amendment, Pet. for Ext. of Time, (identify the type of reply):
Pet. for Revival

☐ has been filed previously on _____.

☒ is enclosed herewith.

B. The issue fee of \$ _____

☐ has been filed previously on _____.

☐ is enclosed herewith.

03/19/2004 AMONIAF1 00000034 09428982

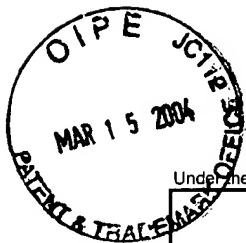
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[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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PTO/SB/61 (11-03)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

3-15-2004
Date

H. Vincent Harsha
Signature

(309) 797-0850
Telephone Number

H. Vincent Harsha
Typed or printed name

18,045
Registration Number, if applicable

1630 5th Avenue
Address

Moline, IL 61265
Address

- Enclosure ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☐ _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

3-15-2004
Date

Christine Herzberg
Signature

Christine Herzberg
Typed or printed name of person signing certificate

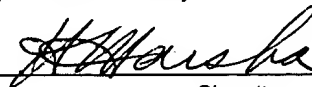
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

3-15-2004

Date



Signature

18,045

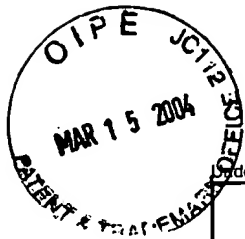
Registration Number, if applicable

H. Vincent Harsha

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

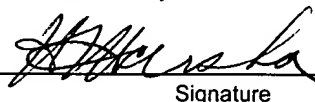
NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

3-15-2004

Date

18,045

Registration Number, if applicable



Signature

H. Vincent Harsha

Typed or printed name

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

(Please attach additional sheets if additional space is needed.)



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,982	10/28/1999	DAVID C. ORLOWSKI	P3091	5377

32754 7590 12/17/2003

HARSHA & ASSOCIATES
1630 5TH AVENUE
MOLINE, IL 61265

EXAMINER

PATEL, VISHAL A

ART UNIT	PAPER NUMBER
----------	--------------

3676

DATE MAILED: 12/17/2003

3 MOS 3-17-2004
5 MOS 5-17-2004
6 MOS 6-17-2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/428,982

Applicant(s)

ORLOWSKI ET AL

Examiner

Vishal Patel

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s): _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-2 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kakabaker et al, US Patent No. 4,743,034.

Kakabaker discloses a stator (23) affixed to a housing (17) and closely surrounding a shaft (13). The stator having a radial groove (groove created in part 23', in figure 5, by the walls 59', 72' and 57') formed therein with the walls of the groove extending between the housing and the shaft (see figure 5). The exterior surface of a first wall (59') of the groove facing the interior of the housing. An axial hole (75, the hole could be a slot or a groove, see column 5, lines 45-49) in the first wall at the lower extremity of the wall from the shaft connecting the groove to the

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housing. The radial groove is more than one-half the radial dimension of the stator, as much as claimed by the applicant.

Regarding claim 9: The stator having a plurality of radial grooves formed therein with the walls of the grooves extending between the shaft and the housing (groove 65, including wall 65 and the adjacent walls thereof).

3. Claims 1-6 and 9-14 18-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Orlowski, Patent No. 5,174,583.

Orlowski discloses a stator (12) affixed to a housing (50) and closely surrounding a shaft (100). The stator having a radial groove (groove 14 created from the wall 20 and adjacent walls thereof) formed therein with the walls of the groove extending between the housing and the shaft (see figure 1). The exterior surface of a first wall (wall having the groove 20) of the groove facing the interior of the housing. An axial hole (groove 20) in the first wall at the lower extremity of the wall from the shaft connecting the groove to the housing. The radial groove is more than one-half the radial dimension of the stator, as much as claimed by the applicant (see figure 2).

The hole in the first wall of the stator includes a axially sloping surface connecting the radial groove to the housing (bottom of 20). The hole and the sloping surface are elongated (the hole has a depth and so does the sloping surface). The hole and the sloping are milled in the first wall. The inside diameter of the stator is proportional to the diameter of the shaft.

Regarding Claims 9-14: The stator having a plurality of radial grooves formed there in with the walls of the grooves extending between the housing and shaft (the two radial grooves 14).

Regarding Claims 18-26: A rotor (24) affixed to the shaft and rotating therewith interfacing with the stator (see figure 1). The interface between the rotor and the stator includes an ejection port

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(near 28, see figure 2) for ejecting of contaminants from the exterior without reaching the housing. The contaminants are expelled by the pumping action between the rotor and the stator, as much as claimed by the applicant (see figure 1). The rotor surrounds the stator and prohibits the entry or exit and subsequent contaminants (the elongated piece of stator received in the rotor at the front face near 24).

4. Claims 1-6 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Drago (US. 6,390,477).

Drago discloses an isolator mechanism for use with a housing having a bearing with lubricant in the housing and a shaft protruding through the housing (intended use), the isolator comprising:

a stator affixed to the housing and closely surrounding the shaft (stator 40 closely surrounding the shaft);

the stator having a radial groove (groove starting near wall 48 and extending to the stator) formed therein with the wall of the groove extending between the housing and the shaft;

the exterior surface of a first wall of the groove facing the interior of the housing;

an axial hole in the first wall at the lower extremity of the first wall from the shaft connecting the groove to the housing

~~a plurality of axial holes in the first wall at the extremity of the first wall from the shaft~~
connecting the groove to the housing (axial holes extending through the stator, between 42 and 44);

the radial groove is more than one-half the radial dimension of the stator (figure 2);

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the hole in the first wall of the stator includes a axially sloping surface (the hole having a sloping surface opposite 74 and 50) connecting the radial groove (groove having wall 80) to the housing;

the hole and the sloping surface are elongated;

the inside diameter of the stator is proportional to the diameter of the shaft.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orlowski et al, Patent No. 5,174,583.

Orlowski discloses the claimed invention except for the proportion between the stator and the shaft is .005 inches per inch of shaft diameter. Discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Without the showing of some unexpected result. Since applicant has not shown some unexpected result the inclusion of this limitation is considered to be a matter of choice in design. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the proportion between the stator and the shaft to be .005 inches per inch of shaft diameter as a matter of design choice.

7. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orlowski and in view of Kakabaker.

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Orlowski discloses the invention substantially as claimed above but does not disclose the hole and the sloping surface are elongated circumferentially (meaning that they create a slot). Kakabaker et al disclose that a drain could be either a hole or a slot (column 5, lines 45-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the hole and the sloping surface of the drain of Orlowski to be elongated circumferentially as taught by Kakabaker, since they are considered to be art equivalent.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Orlowski et al as applied to claim 1 above, and further in view of Fedorovich et al, Patent No. 5431,414.

Regarding claim 17: Orlowski et al disclose the invention substantially as claimed above but does not disclose a plurality of axial holes in the first wall. Fedorovich et al disclose that an axial hole in a first wall (figure 2) or a plurality of axial holes in a first wall (figure 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the axial hole of Orlowski to be a plurality of axial holes as taught Fedorovich, since there are considered to be art equivalent.

Response to Arguments

9. Applicant's arguments filed 1/16/03 have been fully considered but they are not persuasive.

Applicants argument that Kakabaker's does not disclose a stator closely surrounding the shaft is not persuasive because the stator (23) is closely surrounding the shaft (13). Furthermore stator portion near 33' is closely surrounding the shaft.

Applicants' argument that Orlowski's does not disclose a stator closely surrounding the shaft is not persuasive because the stator portion near 20 is closely surrounding the shaft.

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Applicants' argument of inoperability if holes were adjacent the shaft precludes the combination is not persuasive, since Kakabaker disclose both holes and slots that are connected to groove or cavity to collect debris and lubricant.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is (703) 308-8495. The examiner can normally be reached on Monday through Friday from 7:30 PM to 4:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight, can be reached on (703) 309-3179.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168. Technology Center 3600 Customer Service is available at 703-308-1113. General Customer Service numbers are at 800-786-9199 or 703-308-9000. Fax Customer Service is available at 703-872-9325.

Any response to this action should be mailed to:

Art Unit: 3676

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to: 703-872-9326, for formal communications for entry before Final action: or,
703-872-9327, for formal communications for entry after Final action.

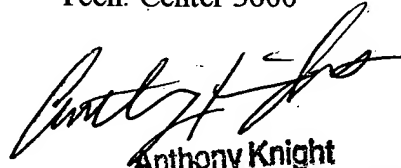
For informal or draft communications, please label "PROPOSED" or "DRAFT" and fax to:
703-746-3814.

Hand-delivered responses should be brought to Crystal Park Five, 2451 Crystal Drive,
Arlington, Virginia, Seventh Floor (Receptionist suite adjacent to the elevator lobby).

VP

March 13, 2003

Judy J. Swann
Supervisory Patent Examiner
Tech. Center 3600



Anthony Knight
Supervisory Patent Examiner
Group 3600

**Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01**

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set time period will result in **ABANDONMENT** of the application.



UNITED STATES
PATENT AND
TRADEMARK OFFICE

FEB 20 2003

Commissioner for Patents,
Washington, DC 20231
www.uspto.gov

Dear Patent Business Customer:

The United States Patent and Trademark Office ("Office") is now permitting and encouraging applicants to voluntarily submit amendments in a revised format as set forth in *AMENDMENTS IN A REVISED FORMAT NOW PERMITTED*, ___ Off. Gaz. Pat. Office ___ (February 25, 2003), currently available on the USPTO web site at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/revamdipr.htm>. The revised format permits amendments to the specification and claims to be made in a single marked-up version; the requirement for a clean version is eliminated. Attached, you will find a flyer with information and instructions regarding the procedures to be used to comply with the revised format. The flyers are being inserted with out-going Office actions mailed during the period of February 20, 2003 - March 31, 2003.

The revised amendment format is essentially the same as the amendment format for the specification, claims, and drawings that the Office is considering adopting via a revision to 37 CFR 1.121 (Manner of Making Amendments). The revision to 37 CFR 1.121 (if adopted) will simplify amendment submission and improve file management. This proposed revision and others necessary to facilitate a gradual transition to the use of an Electronic File Wrapper (EFW) will be set forth in a Notice of Proposed Rule making (NPR), expected to be published by March 2003. After consideration of public comments, the Office anticipates adopting a revision to § 1.121, following publication of a Notice of Final Rule making (NFR), expected by June 2003, at which point compliance with revised § 1.121 will be mandatory.

The Office will continue to accept your amendment submissions in the revised format during the voluntary period, which will extend up to the effective date of final revisions to § 1.121. The Office also encourages your feedback on the proposed revised amendment format and other changes set forth in the NPR, expected to be published by March 2003.

For assistance: Any questions regarding the submission of amendments pursuant to the revised practice should be directed to Office of Patent Legal Administration (OPLA), Legal Advisors Elizabeth Dougherty (Elizabeth.Dougherty@uspto.gov), Gena Jones (Eugenia.Jones@uspto.gov) or Joe Narcavage (Joseph.Narcavage@uspto.gov). Alternately, you may send e-mail to "Patent Practice", the OPLA e-mail address that has been established for receiving queries and questions about patent practice and procedures or telephone OPLA at (703) 305-1616.

Nicholas P. Godici

Nicholas P. Godici
Commissioner for Patents

Attachment: Flyer entitled: *Revised Notice* AMENDMENTS MAY NOW BE SUBMITTED IN REVISED FORMAT*



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,982	10/28/1999	DAVID C. ORLOWSKI	P3091	5377

32754 7590 01/06/2004

HARSHA & ASSOCIATES
1630 5TH AVENUE
MOLINE, IL 61265

EXAMINER

PATEL, VISHAL A

ART UNIT PAPER NUMBER

3676

DATE MAILED: 01/06/2004

4-6-2004 - 3 MOS
6-6-2004 5 MOS
7-6-2004 6 MOS.

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

09/428,982

Examiner

Vishal Patel

Applicant(s)

ORLOWSKI ET AL.

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 05 June 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


Anthony Knight
Supervisory Patent Examiner
Group 3600

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



UNITED STATES PATENT AND TRADEMARK OFFICE



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CUSTOMER
NUMBER: 000032754
CORRESPONDENCE
ADDRESS:

HARSHA & ASSOCIATES
1630 5TH AVENUE
MOLINE, IL 61265

FAX: 309-764-1485
E-MAIL:

PHONE: 309-797-0864

Date Mailed: 05/01/2002

NOTICE OF CUSTOMER NUMBER ASSIGNMENT

The request to assign a "Customer Number" to the above-identified Correspondence Address and Practitioner Registration Number(s) indicated below has been accepted by the Commissioner of Patents and Trademarks.

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18045, .

Ed

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PART 1 - ATTORNEY/APPLICANT COPY